

Article - Business Regulation

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§14–216.

(a) The prospectus shall contain:

(1) the material information set forth in the application for registration, as required by regulation of the Commissioner; and

(2) any other disclosures that the Commissioner requires.

(b) The prospectus shall state, in 10-point or larger bold type, that registration is not approval, recommendation, or endorsement by the Commissioner.

(c) The prospectus shall include the following information:

(1) the name of the franchisor;

(2) the name under which the franchisor does or intends to do business;

(3) the name of any parent or affiliated company that engages in business transactions with franchisees;

(4) the address of the principal office of the franchisor;

(5) the name and address of the resident agent of the franchisor;

(6) whether the franchisor does business as an individual, partnership, or corporation;

(7) information about the identity and business experience of persons affiliated with the franchisor, as the Commissioner requires;

(8) (i) whether any person identified in the prospectus has been convicted of a felony, has pleaded nolo contendere to a felony charge, or has been adjudged liable in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; and

(ii) if so, the court, date of the conviction or the judgment, and any penalty imposed or damages assessed;

(9) (i) whether any person identified in the prospectus is subject to:

1. a currently effective order of the Securities and Exchange Commission, or the securities administrator of a state, that denies registration to or suspends or revokes the registration of the person as a securities broker, securities dealer, or investment adviser;

2. a currently effective order of a national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, that suspends or expels the person from membership in the Association or Exchange;

3. a currently effective order of the Federal Trade Commission; or

4. a currently effective order that enjoins or restricts business activity as a result of an action brought by a public agency, including an action that affects a license as a real estate broker, associate real estate broker, or real estate salesperson; and

(ii) if so, the date, nature, and issuer of the order and any penalty imposed;

(10) the length of time the franchisor has:

(i) conducted business of the type to be operated by a franchisee;

(ii) granted franchises for that business; and

(iii) granted franchises in other lines of business;

(11) a recent financial statement of the franchisor and a statement of each material change in the financial condition of the franchisor since the financial statement was made;

(12) a copy of the typical franchise agreement used or proposed for use in the State;

(13) the franchise fee or, if the franchise fee is not the same in each case, the formula that the franchisor uses to set the amount of the franchise fee and the way the franchisor will apply the franchise fee;

(14) any payment other than a franchise fee that the franchisee or subfranchisor must pay to the franchisor, including any royalty or payment that the franchisor collects wholly or partly for a third party;

(15) the conditions under which the franchisor may terminate, refuse to renew, or repurchase the franchise;

(16) a description of all goods, fixtures, and services that, under the franchise agreement or by practice, the franchisee or subfranchisor must buy from the franchisor or a designee of the franchisor;

(17) whether, under the franchise agreement or by practice, the franchisee is limited in the goods or services that the franchisee may offer to customers;

(18) the conditions of any financing arrangement offered directly or indirectly by the franchisor or an agent or affiliate of the franchisor;

(19) any past or present practice or any intent of the franchisor to sell, assign, or discount to a third party, wholly or partly, a note, contract, or other obligation of the franchisee or subfranchisor;

(20) a copy of any statement of estimated or projected franchisee earnings prepared for presentation to prospective franchisees, subfranchisors, or others and a statement of the information on which the estimation or projection is based;

(21) any compensation or other benefit given or promised to a public figure that arises wholly or partly from:

(i) the use of the public figure in the name or symbol of the franchise; or

(ii) the endorsement or recommendation of the franchise by the public figure;

(22) the number of franchises currently operating or proposed to be sold, as the Commissioner requires by regulation;

(23) whether franchisees or subfranchisors receive an exclusive territory or area franchise;

(24) an authorization for the Commissioner to examine the applicant's financial records that relate to the sale of franchises;

(25) an irrevocable consent to be sued in the State;

(26) appointment of the Commissioner as attorney to receive service of process for the franchisor;

(27) any other information that the franchisor wants to give; and

(28) any other information that the Commissioner reasonably requires.

(d) If the applicant is a subfranchisor, the application shall include the same information about the subfranchisor as is required from the franchisor under this section.

(e) The Commissioner by regulation may:

(1) set the form and content of financial statements required under this subtitle;

(2) state the circumstances under which consolidated financial statements may be submitted; and

(3) state the circumstances under which financial statements shall be audited by an independent certified public accountant or other public accountant.

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